

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS**

Kelly Pinn,

Plaintiff,

v.

Better Tax Relief, LLC

Defendant.

Case No. 4:24-cv-00488-P

**DEFENDANT BETTER TAX RELIEF, LLC’S ANSWER AND AFFIRMATIVE
DEFENSES**

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant Better Tax Relief, LLC (hereinafter, “Defendant” or “Better Tax Relief, LLC”), by and through his undersigned counsel, answers the Plaintiff’s Original Complaint with the following responses and affirmative defenses:

I. MOTION FOR LEAVE

Defendant had previously filed a stipulation agreed by opposing counsel regarding a stay of the case and an extension to file an answer in the matter prior to the date the answer was due, and extending the deadline to answer the case, as reflected in Docket Entry 8, which was denied by the court, after the deadline for the Defendant to file its answer had passed. Defendant moves the court to grant an extension to file its answer in this matter, to allow the Defendant to timely answer the suit, subject to its Notice of Consolidation in the Western District of Texas, as reflected in Docket Entry 7 in this matter.

II. ANSWER

The following paragraphs are directed to the numbered allegations in the Complaint. Any allegation not expressly admitted herein is denied.

JURISDICTION AND VENUE

1. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 1. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial.

2. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 2. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial.

3. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 3. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial.

4. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 4. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial.

PARTIES

5. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 5. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial.

6. Defendant admits the allegations of Paragraph 6 Better Tax Relief, LLC is a California Company operating in California.

JURISDICTION AND VENUE

7. Defendant admits the Court has jurisdiction to hear this matter, subject to and without waiver of its Notice of Motion to Transfer and Consolidate entered in Docket No. 7 in this

matter, but denies claims for violations pursuant to the Texas Business and Commerce Code, as stated in Paragraph 7.

8. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 8. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial, subject to and without waiver of its Notice of Motion to Transfer and Consolidate entered in Docket No. 7 in this matter.

9. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 9. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial, subject to and without waiver of its Notice of Motion to Transfer and Consolidate entered in Docket No. 7 in this matter.

FACTS

10. Paragraph 10 states a legal conclusion and does not contain any factual allegations. To the extent a response is required, Defendant denies the allegations in Paragraph 10.

11. Paragraph 11 states a legal conclusion and does not contain any factual allegations. To the extent a response is required, Defendant denies the allegations in Paragraph 12.

12. Paragraph 12 states a legal conclusion and does not contain any factual allegations. To the extent a response is required, Defendant denies the allegations in Paragraph 12.

13. Paragraph 13 states a legal conclusion and does not contain any factual allegations. To the extent a response is required, Defendant denies the allegations in Paragraph 13.

14. Paragraph 14 states a legal conclusion and does not contain any factual allegations. To the extent a response is required, Defendant denies the allegations in Paragraph 14.

15. Paragraph 15 states a legal conclusion and does not contain any factual allegations. To the extent a response is required, Defendant denies the allegations in Paragraph 15.

16. Paragraph 16 states a legal conclusion and does not contain any factual allegations. To the extent a response is required, Defendant denies the allegations in Paragraph 16.

17. Paragraph 17 states a legal conclusion and does not contain any factual allegations. To the extent a response is required, Defendant denies the allegations in Paragraph 17.

18. Paragraph 18 states a legal conclusion and does not contain any factual allegations. To the extent a response is required, Defendant denies the allegations in Paragraph 18.

19. Paragraph 19 states a legal conclusion and does not contain any factual allegations. To the extent a response is required, Defendant denies the allegations in Paragraph 19.

20. Paragraph 20 states a legal conclusion and does not contain any factual allegations. To the extent a response is required, Defendant denies the allegations in Paragraph 20.

21. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 21. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial in this matter.

22. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 22. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial, subject to and without waiver of its Notice of Motion to Transfer and Consolidate entered in Docket No. 22 in this matter.

23. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 23. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial in this matter.

24. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 24. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial in this matter.

25. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 25. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial in this matter.

26. Defendant denies the allegation of Paragraph 26.

27. Defendant denies the allegation of Paragraph 27.

28. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 28. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial in this matter.

29. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 29. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial in this matter.

30. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 30. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial in this matter.

31. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 31. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial in this matter.

32. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 32. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial in this matter.

33. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 33. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial in this matter.

34. Defendant denies the allegation of Paragraph 34.

35. Defendant denies the allegation of Paragraph 35.

36. Defendant denies the allegation of Paragraph 36.

37. Defendant denies the allegation of Paragraph 37.

38. Defendant denies the allegation of Paragraph 38.

39. Defendant denies the allegation of Paragraph 39.

40. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 40. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial in this matter.

41. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 41. This statement is made pursuant to the Federal Rule of Civil Procedure 8(b)(5) and has the effect of a denial in this matter.

42. Defendant denies the allegation of Paragraph 42.

43. Defendant denies the allegation of Paragraph 43.

44. Defendant denies the allegation of Paragraph 44.

45. Defendant denies the allegation of Paragraph 45.

46. Defendant denies the allegation of Paragraph 46.

47. Paragraph 47 states a legal conclusion and does not contain any factual allegations.

To the extent a response is required, Defendant denies the allegations in Paragraph 47.

48. Defendant denies the allegation of Paragraph 48.

49. Defendant denies the allegation of Paragraph 49.

50. Defendant denies the allegation of Paragraph 50.

51. Defendant denies the allegation of Paragraph 51.

52. Defendant denies the allegation of Paragraph 52.

53. Defendant denies the allegation of Paragraph 53.

First Cause of Action Telephone Consumer Protection Act

(Violations of 47 U.S.C. § 227(b))

54. Plaintiff incorporates previous allegations, and to the extent necessary, Defendant denies the previous allegations.

55. Defendant denies the allegation of Paragraph 55.

56. Defendant denies the allegation of Paragraph 56.

57. Defendant denies the allegation of Paragraph 57.

58. Defendant denies the allegation of Paragraph 58.

Second Cause of Action Texas Business and Commerce Code

Violations of Texas Business and Commerce Code § 302.101

59. Plaintiff incorporates previous allegations in Paragraph 59, and to the extent necessary, Defendant denies the previous allegations.

60. Defendant denies the allegation in Paragraph 60.

61. Defendant denies the allegation in Paragraph 61.

62. Defendant denies the allegation in Paragraph 62.

63. The Prayer in Plaintiff's Original Complaint is a request for relief. Defendant denies that Plaintiff is entitled to this requested relief.

III. AFFIRMATIVE DEFENSES

64. Plaintiff's claims are barred by the doctrine of unclean hands, including fraud. Plaintiff's claims are an attempt to benefit from her own wrongdoing.

65. Plaintiff's claims are barred by the doctrine of unjust enrichment. The relief claimed in the Original Complaint would create an unearned windfall for Plaintiff.

66. Plaintiff's claims are barred by the doctrines of *in pari delicto*, unclean hands, waiver, acquiescence.

67. Plaintiff's claims are barred to the extent she has failed to mitigate any alleged damages.

68. Plaintiff's claims are barred because Plaintiff cannot show that it suffered any harm or damages from Defendant's alleged actions.

IV. ATTORNEY'S FEES

69. It has become necessary for Defendant to hire an attorney, and accordingly, Defendant seeks his reasonable and necessary attorney's fees for defending this action as allowed by law. Defendant asks the Court to award Defendant BETTER TAX RELIEF, LLC's costs and reasonable and necessary attorney's fees as equitable and just.

V. DEMAND FOR JURY TRIAL

70. Defendant respectfully demands trial by jury on all claims, counterclaims, defenses, and issues so triable.

VI. PRAYER

WHEREFORE, Defendant Better Tax Relief, LLC respectfully prays the Court enter judgment against Plaintiff and in favor of Defendant for the following:

- a. Deny all relief requested by Plaintiff Kelly Pinn;
- b. Find that Defendant BETTER TAX RELIEF, LLC has not engaged in violations of the TCPA or the Texas Business and Commerce Code, or any other claim(s) alleged by Plaintiff Kelly Pinn;
- c. Enter an award finding Defendant BETTER TAX RELIEF, LLC's costs and reasonable and necessary attorney's fees;
- d. Award Defendant all prejudgment and post-judgment interest; and
- e. Award Defendant such other and further relief as the court deems just and equitable.

DATED: August 27, 2024

ATTORNEY FOR DEFENDANT

Silberman Law Firm, PLLC

By: /s/ Jesse Buttery

Jesse Buttery

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ATTORNEY FOR DEFENDANT BETTER
TAX RELIEF, LLC

CERTIFICATE OF SERVICE

The undersigned counsel certifies that a true and correct of copy of this instrument was served on all parties, represented through counsel through ECF, email and/or Certified Mail, pursuant to the Federal Rules of Civil Procedure, on this 27th day of August 2024. as follows:

By: /s/ Jesse Buttery

Jesse Buttery